IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 14575 of 2002

Between:

1 D.Prabhavathi, W/o. D.P.Prasada Rao,
Korukonda CRP, Korukonda Mandal,
E.G.District.
2 Ch. Samudrudu, S/o. Basavanna,
Penikeru CRP, Alamuru Mandal,
E.G.District.
3 M.Veer Raju, S/o. Surya Rao,
Pina CRP, Pedapudi Mandal,
E.G.District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, represented by its Secretary,
Food and Agriculture (Coop.) Department, Secretariat,
Hyderabad.
2 The Commissioner for Cooperation and Registrar of Cooperative Societies,
Governemnt of Andhra Pradesh, Hyderabad.
3 The District Cooperative Officer,
Kakinada, E.G.District.
4 The Divisional Cooperative Officer,
Rajahmundry, E.G.District.
5 The Divisional Cooperative Officer,
Kakinada, E.G.District.
6 The Korukonda CRP, Rep. by its Chairman/Persons-In-charge Committee,
Korukonda Mandal, E.G.District.
7 The Penikeru PACS, Rep. by its Chairman/Persons-In-charge Committee,
Alamuru Mandal, E.G.District.
8 The Pina CRB, Rep. by its Chairman/Persons-In-charge Committee,
Pedapudi Mandal, E.G.District.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned action of the respondents in issuing Proc.Rc.No.7028/99A, dated 28-2-2002 thereby reducing the salary of the petitioners without any notice or without any opportunity even before fixation of salaries by the 2nd Respondent in terms of directions given in G.O.Ms.No. 314, dated 26-12-2000 and further action in initiating proceedings for recovery of salaries drawn by these petitioners as per the earlier Government Memo dated 14-10-91 as highly illegal, arbitrary and violative of Art.14 and 21 of the Constitution of India apart from contrary to the provisions of A.P.C.S. Act.

Counsel for the Petitioners: MR.G.V.SHIVAJI (Not present)

Counsel for the Respondents: G.P. FOR COOPERATION

The Court made the following

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondents in issuing Proc.Rc.No.7028/99A, dated 28-02-2002 reducing the salary of the petitioners without any prior notice or without giving any opportunity even before fixation of salaries by the

2nd respondent-Commissioner for Co-operation and Registrar of Cooperative Societies, Hyderabad, in terms of directions given in G.O.Ms.No.314, dated 26-12-2000 and their further action in initiating proceedings for recovery of salaries drawn by the petitioners as per the earlier Government Memo dated

14-10-1991 as illegal and arbitrary.

Initially, while admitting the writ petition, interim stay was granted by this Court on 13-08-2002 in W.P.M.P.No.18224 of 2002 and the said petition was dismissed for non-prosecution on 17-09-2002. Later, the W.V.M.P.No.2826 of 2002, which was filed by the 6th respondent to vacate the said interim order, has not been considered in view of the dismissal of W.P.M.P.No.18224 of 2002.

Again the respondents came up with another vacate stay petition in W.V.M.P.No.46 of 2005 and when the matter was called on 06-06-2005, none appeared for the petitioners and hence, it was directed to be posted on 07-06-2005 for orders. Today also none appears for the petitioners and there is no representation on their behalf.

Heard the learned Government Pleader for Co-operation appearing on behalf of the respondents 1 to 8 and perused the record.

The only grievance of the petitioners is that without any prior notice or without giving any opportunity, the impugned proceedings have been issued and the respondents are also taking steps to recover the salaries drawn by the petitioners and therefore, the present writ petition is filed.

The 4th respondent filed counter affidavit stating that the staffing pattern proposals of the petitioners 1 & 2 societies were rejected and returned by him, as they were not inconformity with the norms as noted in para 5 of the writ petition. As per the norms, the Societies are not in a position to pay enhanced salaries to the petitioners and the circular dated 28-02-2002 of the 3rd respondent was upheld by this Court in W.P.No.13990 of 2002, dated 12-09-2002.

The learned Government Pleader for Co-operation contends that the 3rd respondent has issued the circular dated 28-02-2002 to implement the amended provisions of Section 116 (C) of the Andhra Pradesh Co-operative Societies Act, 1964 (for short 'the Act') and re-fix the salaries accordingly and directed the Societies to pay not less than the minimum wages keeping in view the recent amendments and that the petitioners societies have failed to submit the staffing pattern proposals as per the norms and therefore, the same were rejected and hence the writ petition is devoid of merit and is liable to be dismissed.

A Society shall have power to fix the staffing pattern, qualifications, pay scales and other allowances for its employees with the prior approval of the Registrar of Co-operative Societies subject to the condition that expenditure towards pay and allowances of the employees shall not exceed two percent of the working capital or thirty percent of the gross profit, in terms of actuals in a year whichever is less.

The petitioners challenge the circular dated 28-02-2002, whereunder it is directed that all the Primary Agricultural Cooperative Societies will have to get prior approval of the general body for the business turnover, financial status etc., and submit details with regard to the executive committee approval, general body meeting approval, yearly budget, audit report, working capital report and gross profit.

The only grievance of the petitioners is that without any prior notice or without

giving any opportunity to them, their salaries have been reduced.

As per Section 116 (C) of the Act, expenditure towards pay and allowances of the employees shall not exceed two percent of the working capital or thirty percent of the gross profit. There is no factual foundation with regard to two percent of the working capital or thirty percent of the gross profit of the petitioners' societies. It is not shown that the reduction of salaries of the petitioners is contrary to Section 116 (C) of the Act. No right has been infringed since the reduction of the salaries is in accordance with the provisions of Section 116 (C) of the Act and therefore, no notice or opportunity need be given to the petitioners. As a matter of fact, the staffing pattern proposals of the petitioners 1 & 2 societies were rejected and returned by the 4th respondent, as they were not inconformity with the norms and the societies are not in a position to pay salaries to the petitioners. Therefore, no rights have been infringed affecting the petitioners and the impugned proceedings are inconformity with the provisions of the Act. Hence, the writ petition is devoid of merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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K.C. BHANU, J

Date: 7th June, 2005

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ASSISTANT REGISTRAR

To

1 The Secretary, Government of Andhra Pradesh,
Food and Agriculture (Coop.) Department, Secretariat,
Hyderabad.
2 The Commissioner for Cooperation and Registrar of Cooperative Societies,

Governemnt of Andhra Pradesh, Hyderabad.

3 The District Cooperative Officer,
Kakinada, E.G.District.

4 The Divisional Cooperative Officer,
Rajahmundry, E.G.District.

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6 The Chairman/Persons-In-charge Committee,

The Korukonda CRP, Korukonda Mandal, E.G.District.

7 The Chairman/Persons-In-charge Committee, The Penikeru PACS,
Alamuru Mandal, E.G.District.

8 The Chairman/Persons-In-charge Committee,The Pina CRB,
Pedapudi Mandal, E.G.District.

9 Two CCs to G.P. for Co-operation, High Court Buildings, Hyderabad (OUT).

10. Two CD copies.